



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA
AT NAKURU
HCC 23 OF 2011

KENYA AGRICULTURAL RESEARCH INSTITUTE

(K.A.R.I.).....PLAINTIFF

VERSUS

**FARAH ALI, CHAIRMAN ISAHAKI SELF HELP GROUP (Sued on his
own behalf and on behalf of the members of the group...1st DEFENDANT**

COMMISSIONER OF LANDS.....2ND DEFENDANT

RULING

1. This matter is listed today for hearing of the main suit. The date was taken by consent on 4th November 2015. Today, Mr Anyona for the plaintiff has sought adjournment basically on two grounds.
2. The first is that they have preferred an appeal against my ruling of 5th November 2015. The second is that they wish for more time to file additional statements and/or documents.
3. On the first reason, it is trite law that an appeal does not operate as a stay. The mere fact that there is an appeal is not enough to stay these proceedings.
4. On the second reason, I gave time to the plaintiff, which I consider to be enough to put its house in order. In fact I have literally bent over backwards in accommodating the plaintiff's request for time to file additional documents and the record will bear me witness.
5. Counsels for the defendants have sacrificed a lot to be in court and the matter is certainly of great public importance. I have stated in earlier rulings that this is a suit that should be disposed of expeditiously.
6. On the above reasons, I see no merit in the application for adjournment and it is disallowed. The best accommodation I can give to the plaintiff (instead of dismissing its suit) is to allow the defendant who has a counterclaim, to present their case first. The matter to proceed on that basis.

7. On perusal of the record, I note that there was an oral application for leave to appeal which was made on 5th November 2015. Probably due to an oversight, I may have overlooked recording that leave was granted. For the avoidance of doubt, leave to appeal my ruling of 5th November 2015 is given and he same be deemed as having been given on the same day, i.e. 5th November 2015.

8. I apologise for the oversight.

Dated, signed and delivered in open court at Nakuru this 1st day of February, 2016.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of:

Mr Anyona present holding brief for Mr Kanjama for plaintiff.

Mr Athuok present for 1st defendant

Mr Nguyo present for 2nd defendant

CA: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU